

## REMARKS

### **35 U.S.C. § 101 rejections**

In the papers mailed June 21, 2011 and August 5, 2011 claim 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196 and 197 are rejected under 35 U.S.C. §101. The Assignee will traverse the rejection of claim 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196 and 197 under §101 in several ways. First, by noting that there is no statutory basis for the claim rejections as detailed by Link (as amended). Second, by noting that the claim rejections fail under both standards of the APA and are therefore moot. Third, by noting that the author of said papers has failed to establish a prima facie case of non utility. The Assignee also notes that claim amendments have obviated the claim rejections.

### **35 U.S.C. §103 rejections**

In the papers mailed June 21, 2011 and August 5, 2011, claim 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196 and 197 are rejected under §103(a) as being obvious given U.S. Patent 6,012,053 (hereinafter, Pant) in view of U.S. Patent 5,812,988 (hereinafter, Sandretto). The author of said papers has cited Pant and Sandretto as references. The Assignee traverses the rejections for obviousness in several ways. First, by noting that the claim rejections are not in compliance with the Administrative Procedures Act and are therefore moot. Second, by noting the claim rejections are non-statutory as noted by Link (as amended). Third, by noting that the Office Action has failed to establish a prima facie case of obviousness. The cited combination of documents fails to establish a prima facie case of obviousness for claim 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196 and 197 by: citing combinations of documents that teach away from the claimed invention, citing a combination of documents that fails to teach one or more limitation for every claim, failing to explain the combination as required by KSR v Teleflex, teaching a combination that requires a change in principle of operation of the disclosed inventions and teaching a combination that would destroy the ability of one or more of the inventions to function. *MPEP 2143.03 provides that: to establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art (In re Royka, 490 F.2d 981, 180 USPQ 580 (CCPA 1974)).* Finally, the Assignee notes that claim amendments have obviated these claim rejections.

### **35 U.S.C. §112 first paragraph rejections**

In the papers mailed June 21, 2011 and August 5, 2011, claim 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196 and 197 are rejected under 35 U.S.C. §112 first paragraph as lacking a written description that would enable those of average skill in the art to make and use the claimed invention. The Assignee will traverse the §112 first paragraph rejection of claim 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196 and 197 in several ways. First, by noting that the assertions regarding the alleged lack of written description are not in compliance with the both standards of the Administrative Procedures Act and are therefore moot. Second, by noting the claim rejections are non-statutory for the reasons detailed by Link (as amended). Third, by noting that the Office Action has failed to establish a prima facie case that the specification does not meet the requirements of §112 first paragraph. Finally, the Assignee notes that claim amendments have obviated these claim rejections.

### **35 U.S.C. § 112 Second Paragraph Rejections**

In the papers mailed June 21, 2011 and August 5, 2011 claim 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196 and 197 are rejected under 35 U.S.C. §112 second paragraph for a variety of reasons including: allegedly lacking a written description that would enable those of average skill in the art to make and use the claimed invention. The Assignee will traverse the §112 second paragraph rejection of claim 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196 and 197 in several ways. First, by noting that the assertions regarding the alleged lack of written description are not in compliance with the both standards of the Administrative Procedures Act and are therefore moot. Second, by noting the rejections are non-statutory for the reasons detailed by Link (as amended). Third, by noting that the papers have failed to establish a prima facie case that the specification does not meet the requirements of §112 second paragraph. Finally, the Assignee notes that claim amendments have obviated these claim rejections.

### **Material from co-pending applications**

Under the provisions of MPEP § 2001.06(b), the author of the set of papers mailed June 21, 2011 and August 5, 2011 is hereby advised of information obtained from co-pending U.S. Patent Application(s) which may be "material to patentability" of the instant application (see *Armour & Co. v. Swift & Co.*, 466 F.2d 767, 779, 175 USPQ 70, 79 7th Cir. 1972).

The subject matter contained in the material incorporated herein above may be deemed to relate to the present application, and thus may be felt (with or without reasonable justification) to be material to the prosecution of the instant application.

☐ Copies of cited U.S. patent application(s) (office actions, specification, claims, and the drawings) or copies of the portion(s) of the application(s) which caused it(them) to be cited, including any claims directed to such portion(s) are attached hereto.

☒ Copies of the cited U.S. Patent Application(s) (office actions, specification, claims, and the drawings) and U.S. Patents are available on the U.S.P.T.O.'s Image File Wrapper. Therefore copies thereof need not be attached.

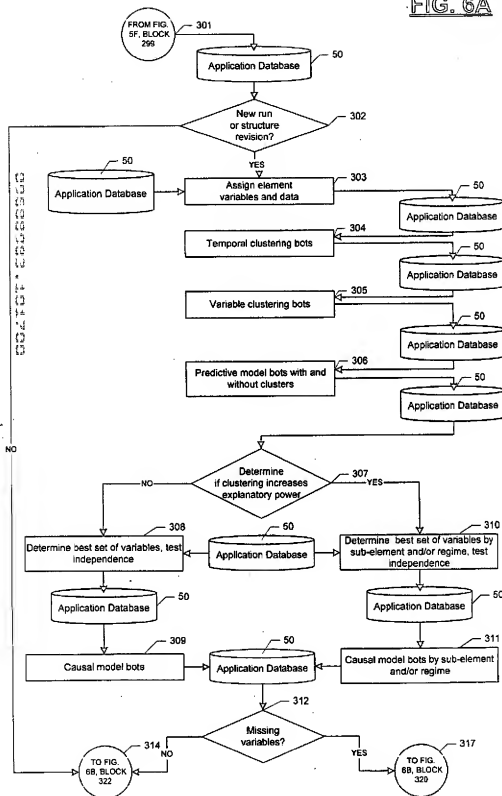
☐ The materials in the envelope are considered trade secrets and are being submitted for consideration under MPEP § 724.

Any and all of the listed co-pending applications are not to be construed as prior art. By bringing the above-listed information to the attention of the author, the Assignee does NOT waive any confidentiality concerning the above-listed co-pending application(s) or this application. See MPEP §101. Furthermore, if said application(s) should not mature into patents, such application(s) should be preserved in secrecy under the provisions of 35 U.S.C. § 122 and 37 C.F.R. § 1.14. In particular, the Assignee has incorporated 3 pages from co-pending application 09/688,983. The table below shows the correspondence between the software blocks in the instant application and the software blocks in co-pending application 09/688,983.

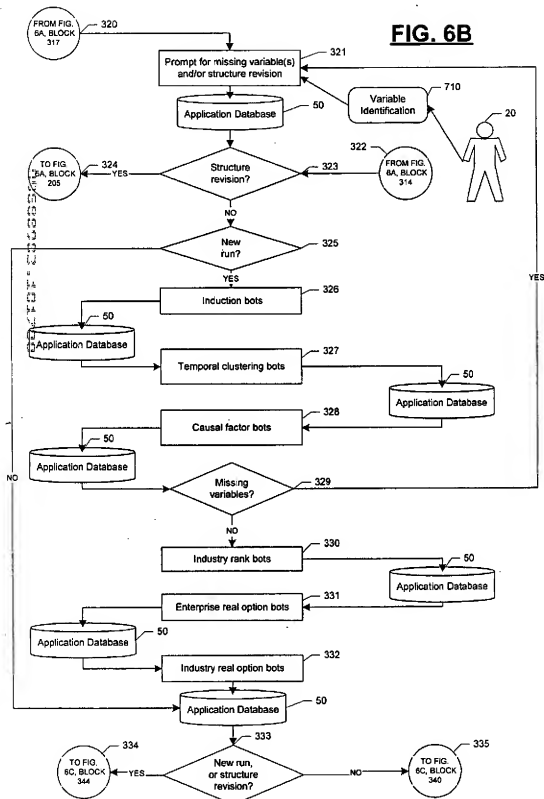
Instant application block:	Corresponds to:
FIG. 6A, block 303	FIG. 6A, block 303 in 09/688,983
FIG. 6A, block 304	FIG. 6A, block 305 in 09/688,983
FIG. 6A, block 305	FIG. 6A, block 306 in 09/688,983
FIG. 6A, block 306	FIG. 6A, block 308 in 09/688,983
FIG. 6A, block 308	FIG. 6A, block 309 in 09/688,983
FIG. 6A, block 309	FIG. 6B, block 326 in 09/688,983
FIG. 6A, block 310	FIG. 6A, block 312 in 09/688,983
FIG. 6B, block 321	N/A 09/688,983 does not have the same levels
FIG. 6B, block 326, 327 and 328	FIG. 6B, block 330, 331 and 332 in 09/688,983
FIG. 6B, blocks 330 and 331	FIG. 6C, block 341 in 09/688,983
FIG. 6C, blocks 341 and 342	FIG. 6C, block 342 in 09/688,983

FIG. 6C, blocks 345 and 346	FIG. 6C, block 345 in 09/688,983
FIG. 6C, blocks 347 and 348	FIG. 6C, block 347 in 09/688,983
FIG. 6C, blocks 349 and 350	FIG. 6C, block 351 in 09/688,983
FIG. 7, blocks 404 and 405	FIG. 6C, block 352 in 09/688,983
FIG. 7, blocks 410 and 411	FIG. 5F, blocks 295 and 296 in 09/688,983
FIG. 7, blocks 413, 414 and 415	FIG. 6C, block 353 in 09/688,983

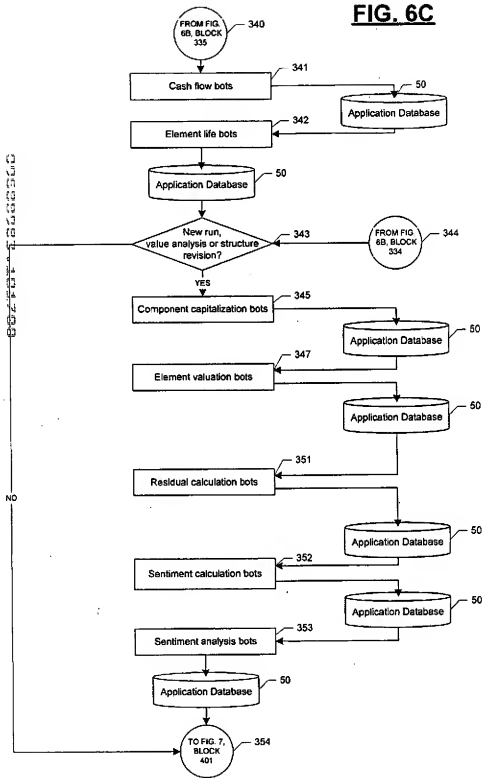
FIG. 6A



**FIG. 6B**



**FIG. 6C**



#### **Statement under 37 CFR 1.111**

37 CFR 1.111 requires that the basis for amendments to the claims be pointed out after consideration of the references cited or the objections made. The Assignee notes that this requirement is not relevant to the instant application because, as detailed above, there are no references or objections to avoid. Having said that the Assignee notes that the claims were amended to put them in final form for allowance and issue by correcting informalities.

#### **Reservation of rights**

The Assignee hereby explicitly reserves the right to present the previously modified and/or canceled claims for re-examination in their original format and to recover any fees or expenses caused by the failure of the Office to provide a statutory examination of the instant application. The cancellation or modification of pending claims to put the instant application in a final form for allowance and issue is not to be construed as a surrender of subject matters covered by the original claims before their modification.

#### **Conclusion**

The pending claims are of a form and scope for allowance. Prompt notification thereof is requested.

Respectfully submitted,  
Asset Trust, Inc.  
/B.J. Bennett/  
B.J. Bennett, President  
Date: October 21, 2011